

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY SUICO, et al.,

Plaintiff(s),

No. C 10-4780 PJH

v.

**ORDER DISMISSING COMPLAINT
FOR FAILURE TO PROSECUTE**UNIVERSAL AMERICAN MORTGAGE
COMPANY OF CALIFORNIA, et al.,

Defendant(s).

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By order filed on April 25, 2011, the court dismissed the complaint with prejudice as to defendants Deutsche Bank Trust Company and Mortgage Electronic Registration Systems, Inc.. In that order, the court noted that plaintiffs had failed to oppose the motion, failed to appear at the hearing on the motion, and had otherwise failed to participate in the action since its commencement in October 2010. Accordingly, the court issued an ORDER TO SHOW CAUSE (“OSC”) why the action should not be dismissed in its entirety for failure to prosecute. A hearing on the OSC was scheduled for May 12, 2011 and plaintiffs were warned that their failure to appear or failure to show cause would result in a dismissal of the action as to the two remaining defendants, who have not appeared in this action. Plaintiffs did not appear at the hearing or otherwise respond to the order to show cause.

The court having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), and having determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order(s), the court finds there is no appropriate less drastic sanction. Accordingly, this

1 action is dismissed with prejudice as to the remaining defendants, Universal American
2 Mortgage Company of California and North American Title Company, pursuant to Fed. R.
3 Civ. pro. 41(b) for plaintiff's failure to prosecute.

4 **IT IS SO ORDERED.**

5 Dated: May 16, 2011


6 PHYLLIS J. HAMILTON
7 United States District Judge